

Attorney Docket No.: 12917 (PTQ-0027)
Inventors: Van Eyk et al.
Serial No.: 09/115,589
Filing Date: July 15, 1998
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REMARKS

Claims 1-28 and 53-55 are pending in the instant application. Claim 5 is allowed. Claims 1-4, 6-28 and 53-55 have been rejected. Claims 1, 2, 3, 4, 5, 6, 7, 8, 20, 22, 25, and 54 have been amended. Claims 21, 53 and 55 have been canceled, without prejudice, in light of the amendments to claim 1. Support for these amendments is provided in the specification, for example at page 10, lines 23 through page 11, line 6, page 24, lines 1 through 11, and 15 through 18, page 33, page 37, lines 8 through 9 and page 41. No new matter is added by this amendment and entry is respectfully requested.

Rejection of Claims 1-4, 6-24, 28 and 53-55 under 35 U.S.C. § 102(b)

Claims 1-4, 6-24, 28 and 53-55 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Wicks et al. (WO 94/27156). The Examiner suggests that Wicks et al. discloses the use of antibodies and detectable labels and markers to detect troponin I and troponin C in a complex in sandwich assays and that the phrase "myofilament protein modification product" in the instant claims encompasses any complex formation, covalent or non-covalent.

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Applicants respectfully disagree with the Examiner's characterization of the intact TnI protein detected by Wicks et al. as a myofilament protein modification product as defined in the instant application.

However, in an earnest effort to advance the prosecution of this case and to clearly distinguish the present invention from the method of Wicks et al., Applicants have amended the claims to state that the presence of a peptide fragment of a myofilament protein or a covalent or non-covalent complex of a peptide fragment of a myofilament protein is detected in the biological sample and is associated with muscle damage.

Support for this amendment is provided in the specification at page, lines 23 through page 11, line 6, page 24, lines 1 through 11, and 15 through 18, page 33, page 37, lines 8 through 9 and page 41.

Wicks et al. does not teach detection of a peptide fragment of a myofilament protein or detection of a covalent or non-covalent complex comprising a fragment of a myofilament protein. Thus, this reference does not teach all the elements of the claims as amended. Thus, withdrawal of this rejection under 35 U.S.C. § 102(b) is respectfully requested.

While not discussed in detail during the Telephone

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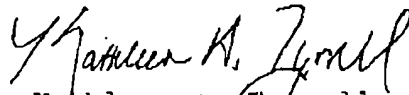
Interview, this amendment also clearly distinguishes the present invention from teachings of Takahashi et al. since this reference also provides no teaching of peptide fragments of a myofilament protein or a covalent or non-covalent complex comprising a peptide of a myofilament protein detectable in a biological sample and associated with muscle damage.

Thus, withdrawal of all pending rejections is respectfully requested.

Conclusion

Applicants believe that the foregoing comprises a full and complete response to the issues raised in the Telephone Interview. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,



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Date: December 1, 2003

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